

Senate Bill No. 594

CHAPTER 442

An act to add Chapter 13 (commencing with Section 6292) to Part 1 of Division 4 of the Food and Agricultural Code, relating to pest control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 2001. Filed with
Secretary of State October 3, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 594, Chesbro. Pest control: Pierce's disease.

Existing law creates in the Department of Food and Agriculture the Pierce's Disease Control Program. Under existing law, funds appropriated for this program shall not be allocated to a local public entity, as designated by the county's board of supervisors, until the local public entity creates a Pierce's disease work plan that is approved by the department.

Existing law, the Winegrape Pest and Disease Control District Law, authorizes the formation of winegrape pest and disease control districts to respond to the effects of winegrape plant pests and diseases, and to collect and disseminate to winegrape producers in the district all relevant information and scientific studies concerning the pests and diseases, as well as to chart and determine the extent and location of any infestations. Existing law sets forth a procedure for the formation, consolidation, reauthorization, and dissolution of the districts, and provides for their powers and duties, including the power to make assessments for the purposes of the district.

This bill would create the Napa County Winegrape Pest and Disease Control District Law and would state various findings and declarations with respect to Pierce's disease and its vector the glassy-winged sharpshooter, winegrapes, and Napa Valley's contribution to the winegrape industry. This bill would declare that it is the purpose of these provisions to, among other things, assist in the funding of the inspection, detection, and education of Pierce's disease as stated in the Napa County Glassy-Winged Sharpshooter Workplan, as specified, to prevent the spread of Pierce's disease by the glassy-winged sharpshooter. This bill would set forth procedures for the formation, consolidation, reauthorization and dissolution of the districts, and provide for their powers and duties in a similar fashion to existing law. The bill would impose duties on a county board of supervisors if a petition is filed to form a district, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Chapter 13 (commencing with Section 6292) is added to Part 1 of Division 4 of the Food and Agricultural Code, to read:

CHAPTER 13. NAPA COUNTY WINEGRAPE PEST AND DISEASE
CONTROL DISTRICT LAW

Article 1. Findings and Definitions

6292. The Legislature finds and declares all of the following:

(a) California is the leading producer of wine in the United States, accounting for 91 percent of total United States wine production and 72 percent of total wine sales in the United States.

(b) Winegrapes are grown in virtually every county for processing by more than 800 wineries located throughout the state.

(c) California grows more than 554,000 acres of winegrapes producing 3.3 million tons of grapes per year valued at more than one billion nine hundred million dollars (\$1,900,000,000), with a direct and indirect impact on the state's economy totaling more than thirty-three billion dollars (\$33,000,000,000). Napa Valley contributes more than four billion dollars (\$4,000,000,000) to that total.

(d) Destructive pests and diseases, including winegrape pests and diseases, pose a significant and imminent threat to California's important grape and wine industry.

(e) The State of California has a great economic interest in protecting its agricultural products from further destruction by the Pierce's disease vector, the glassy-winged sharpshooter, and other harmful winegrape pests and diseases, which may occur in the future.

(f) Pierce's disease has already infested grape growing acreage in many California counties, including Napa County, resulting in devastating losses to growers and the wine industry.

(g) As a known vector for Pierce's disease, the glassy-winged sharpshooter has been determined to carry and spread Pierce's disease



to many forms of California agriculture, usually with complete destruction to the infected crop. This destructive effect of the disease has been determined by experts in the viticulture field to be especially true with infected winegrapes.

(h) To avoid a potentially catastrophic loss to one of California's most important industries, the Legislature declares that this chapter is in the interest of the public health and welfare.

(i) This article is not intended to establish a precedent, or to supersede, reduce, or in any way alter government funding related to Pierce's disease and other pests in this state.

(j) The purposes of this article are enhanced by the many and varied efforts of the growers and marketers of other commodities related to this bacteria and its vectors.

(k) The Legislature further declares that it is in the interest of the public health and welfare that the creation of districts by this chapter not duplicate existing services already being provided to grape growers by the University of California Cooperative Extension Farm Advisor or the county agricultural commissioner.

6292.1. This chapter shall be known and may be cited as the Napa County Winegrape Pest and Disease Control District Law.

6292.2. It is the purpose of this chapter to make available a procedure for the organization, operation, government, and dissolution of districts to assist in the funding of the inspection, detection, and education of Pierce's disease as stated in the Napa County Glassy-Winged Sharpshooter Workplan, as approved by the California Department of Food and Agriculture and accepted by the Napa County Board of Supervisors, to prevent the spread of Pierce's disease by the glassy-winged sharpshooter. Additionally, it is the purpose of this chapter to address other pests and diseases that attack winegrape plants, and to collect and disseminate to winegrape producers in the district all relevant information and scientific studies concerning pest or pests, as well as to chart and determine the extent and location of any infestations.

Division 3 (commencing with Section 56000) of Title 5 of the Government Code does not apply to districts organized pursuant to this chapter.

6292.3. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Board" or "board of directors" means the board of directors of a district.

(b) "District" means a winegrape pest and disease control district organized pursuant to this chapter.



(c) “Owner” includes joint owner, coowner, guardian, executor, administrator, or any other person or entity that holds property in a trust capacity under court appointment.

(d) “Winegrape pest and disease” means any pest or disease that is determined by the California Department of Food and Agriculture or the County Agricultural Commissioner to be a threat to the growing or viability of winegrapes, as defined in this section, or as defined in Section 5006.

(e) “Winegrapes” means grapes produced that are intended to be converted from their fresh form into grape juice, grape concentrate, wine, or any products thereof, including, but not limited to, high proof and brandy produced from winegrapes.

(f) “Winegrape growing acreage” means any parcel of real property with one acre, or more, of winegrape plants, grapes or grape products, regardless of the use of a grape product or products.

Article 2. Formation of Districts

6293. Proceedings for the formation of a district within Napa County shall be commenced by a petition that is either of the following:

(a) Signed by 50 percent or more of the owners of 65 percent or more of the affected land.

(b) Signed by 65 percent or more of the owners of 50 percent or more of the affected land.

The petition shall be addressed to, and filed with, the board of supervisors of the county.

6293.1. The petition may be filed in sections, each of which shall comply with all the requirements for a petition, except that a section need not contain the total number of signatures required for the petition.

6293.2. Signatures to the petition may be withdrawn at any time before it has been acted upon by filing with the clerk of the board of supervisors a declaration signed by the petitioner that states that it is the intention of the petitioner to withdraw his or her signature from the petition.

6293.3. (a) The petition shall state the name of the proposed district and shall set forth its boundaries or describe the lands to be included.

(b) It is a sufficient designation of the boundaries of a proposed district to recite that all the winegrape growing acreage in the county is to be included in the district, or that all the winegrape growing acreage in a designated area within the county is to be included in the district.

(c) If either designation is used, the outside boundary of the area so designated is the boundary of the district, and the district shall include all winegrape growing acreage within the outside boundary.



6293.4. (a) Upon the presentation and filing of a petition, the board of supervisors shall refer the petition to the county agricultural commissioner for the preparation of a register of owners of winegrape growing acreage within the proposed district, and for an investigation and report.

(b) The agricultural commissioner shall create a register of all winegrape growing acreage owners within the proposed district describing the net acreage or size of land devoted to the growing of winegrapes. The commissioner shall file with the register a report and recommendation to the board of supervisors on whether conditions of Pierce's disease, the glassy-winged sharpshooter, or other pest or disease warrant the board of supervisors proceeding with the organization of the district.

6293.5. (a) The board of supervisors shall fix a time and place for the hearing of the petition.

(b) The hearing shall not be less than 20 days, or more than 40 days, after the filing of the petition with the board of supervisors.

(c) The board of supervisors shall order the county clerk to give notice of the time and place fixed for the hearing upon the petition.

6293.6. The notice of hearing shall do all of the following:

(a) State the name of the district and that it is being formed for the control of winegrape pests and diseases pursuant to this chapter.

(b) State the petition is available for inspection at the office of the clerk of the board of supervisors.

(c) Designate the boundaries of the proposed district in substantially the same way that they are described in the petition.

(d) State the time and place for the hearing.

(e) State that at the hearing protests will be considered by the board of supervisors.

(f) State that requests in writing for the exclusion of lands from, or the inclusion of lands in, the proposed district, will be heard and considered by the board of supervisors.

6293.7. Notice of the hearing shall be given by publication in a newspaper of general circulation published and circulated in the district. Notice of the hearing shall also be given to all winegrape growing acreage owners within the proposed district.

6293.8. The notice shall be published once a week for two successive weeks prior to the date set for the hearing.

6293.9. At the hearing, the report of the county agricultural commissioner shall be received by the board of supervisors. Protests may be made orally or in writing by any person interested in the formation of the proposed district. Any protest that pertains to the regularity or sufficiency of the proceedings shall be in writing and shall

clearly set forth the irregularities and defects to which objection is made. All written protests shall be filed with the clerk of the board of supervisors on or before the time fixed for the final hearing. The hearing may be continued from time to time, not to exceed 60 days.

6293.10. At the hearing, any owner of winegrape growing acreage in the proposed district may present to the board of supervisors a request for the exclusion of that land or any part of that land from the proposed district upon a showing that the land or part of that land will not be benefited by the activities of the proposed district. Factors that the board of supervisors may consider in its determination to exclude shall include an affidavit from the landowner stating that the land is not planted to winegrapes and will not be so planted in the foreseeable future. However, should the excluded land be planted to winegrapes, the landowner shall be required to inform the district, in writing, within 30 days of planting. Any owner of winegrape acreage outside the proposed district may present to the board of supervisors a request in writing for inclusion of that land in the proposed district.

6293.11. If the board of supervisors determines that the petition does not comply with the requirements of law, the matter may be dismissed without prejudice to present a new petition covering the same matter. A finding by the board of supervisors in favor of the sufficiency of the petition and notice is final and conclusive against all persons except the state in a proceeding brought by the Attorney General within one year of the date of the making of the order establishing and describing the boundaries of the district.

6293.12. (a) If the board of supervisors determines that the project is feasible and in the interest of the winegrape growers of the county, the board of supervisors shall, by order entered in its minutes, declare the district duly organized under the name designated in the petition for the formation of the district.

(b) The order shall describe the territory included in the district and, if the board of supervisors does not exclude or include land pursuant to Section 6293.13, it is a sufficient description of the territory to describe the boundaries in substantially the same way as they are described in the petition.

(c) A copy of the order duly certified by the clerk of the board of supervisors shall be filed for record in the office of the county recorder of the county in which the district is situated.

6293.13. (a) In determining the boundaries of the district, the board of supervisors shall exclude from the district any winegrape growing acreage that it finds will not be benefited by the proposed project, and it may include in the district any winegrape growing acreage that it finds will be benefited if it also finds it will be in the interest of the district to



include that winegrape growing acreage. The inclusion may be upon application of the owner or, without the owner's application, upon giving the owner notice of the proposed inclusion and an opportunity for a hearing on the inclusion.

(b) Notice of inclusion shall be mailed, postage prepaid, by the clerk of the board of supervisors, to the address of the owner of the winegrape growing acreage, as shown by the last equalized county assessment roll, and to any person that has filed with the clerk that person's name and address and description of winegrape growing acreage in which he or she has either a legal or equitable interest. The notice shall describe the winegrape growing acreage proposed to be included, and shall state the time and place at which objections to the inclusion will be heard.

Article 3. Organization of Districts

6294. Upon the adoption of the order of organization, the board of supervisors shall immediately appoint a board of directors of five members to administer the affairs of the district.

6294.1. In order to be eligible to be a director of the district, a person shall be a citizen of the United States and of this state, and an owner of lands included in the district that are devoted, in whole or in part, to the growing of winegrapes. The district board members shall represent geographically diverse areas in the county.

6294.2. Upon his or her appointment, each director shall, in the manner provided by law, subscribe the oath of office and file the oath with the county clerk.

6294.3. (a) From and after the filing for record of the order of the board of supervisors declaring the district organized, and the appointment and qualification of its first board of directors, the organization of the district is complete. The district shall operate for a period of five years from the date of its organization and shall cease to exist after five years, unless the district is reauthorized and approved by the board of supervisors.

(b) The district board of directors shall hold a public hearing six months prior to the termination of its initial organization or last reauthorization to determine whether the conditions of Pierce's disease, the glassy-winged sharpshooter or other pest or disease determined pursuant to Section 6293.4 warrant the reauthorization of the district for an additional five years. The notice of hearing shall state the name of the district and that consideration is being given to reauthorizing the district for up to an additional five years, the boundaries of the district, and the time and place for the hearing. Notice of the hearing shall be given as provided in Sections 6293.7 and 6293.8. The district board of directors



shall submit the record of the hearing and its recommendation to the board of supervisors within 90 days of the hearing.

(c) Following its receipt of the recommendation of the district board of directors, the board of supervisors shall approve or reject the recommendation. If the recommendation is rejected, the board of supervisors shall return the report accompanied by its reasons for the rejection to the board of directors within 30 days of receipt. The district board of directors may thereafter address the reasons for rejection by the board of supervisors and submit an amended report and new recommendations for reauthorization for approval or rejection by the board of supervisors, unless the district has ceased to exist pursuant to subdivision (a).

6294.4. (a) Immediately after the organization of the district, the directors shall meet and organize as a board and shall elect a chairperson, vice chairperson and secretary from among their own number.

(b) The chairperson shall call and preside at all meetings of the district board, sign all warrants drawn on the county treasurer, and all contracts and other documents, and the minutes of all meetings at which the chairperson is present. In case of the chairperson's absence from a meeting, the vice chairperson shall act as chairperson pro tempore. The vice chairperson may sign warrants in place of the chairperson if the chairperson is absent from a meeting or unavailable. The secretary shall give notice of and keep the minutes of all meetings and prepare and have custody of all records and papers, and have custody of the seal of the district. The secretary shall attest all warrants drawn on the county treasury, all contracts and other documents, and shall sign the minutes of all meetings at which he or she is present. The secretary shall prepare the annual reports and any other reports required by the district board and shall prepare all notices and all calls for bids.

6294.5. The members of the district board shall serve for terms of one year, or for a longer term as determined by the board of supervisors, and until the appointment and qualification of their successors.

6294.6. Upon the expiration of the term of any member of the district board, the board of supervisors shall appoint the successor. Vacancies shall be filled by the board of supervisors for the unexpired term.

6294.7. The members of the district board shall not receive any compensation for their services, but may be reimbursed for their actual and necessary expenses, when claims for those expenses have been approved by the district board.



Article 4. Powers and Duties of the District

6295. The district may do all of the following:

- (a) Sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.
- (b) Adopt a seal and alter it at pleasure.
- (c) Take by grant, purchase, gift, devise, lease, or otherwise, and hold, use and enjoy, and lease, or otherwise dispose of, real and personal property of every kind and description within or without the district necessary to the full and convenient exercise of its powers.
- (d) Cause assessments to be levied, as provided in Article 5 (commencing with Section 6296), to pay any obligation of the district and to accomplish the purposes of the district in the manner provided in this chapter.
- (e) Make contracts, and employ, except as otherwise provided in this chapter, all persons, firms, and corporations necessary to carry out the purposes and the powers of the district, and at any salary, wage, or other compensation as the district board of directors shall determine.
- (f) Respond to the effects and spread of Pierce's disease, the glassy-winged sharpshooter, and other winegrape plant pests and diseases and collect and disseminate to winegrape growers in the district all relevant information and scientific studies concerning the pest or pests or diseases, as well as to chart and determine the extent and location of any infestations.
- (g) With reasonable advance notice in writing to the landowner, as determined by the district, enter into or upon any land included within the boundaries of the district for the purpose of inspecting the winegrape plants and any other host plants and fruit growing on them.
- (h) Perform any and all acts, either within or outside the district, necessary or proper to fully and completely carry out the purposes for which the district is organized.
- (i) The district's administrative costs are to be limited to 5 percent of the annual assessment revenues.

6295.1. Every district formed pursuant to this chapter has all of the powers prescribed by Section 6295 and other provisions of this chapter, regardless of any language in the petition for formation for any district or in any of the proceedings leading to the formation that would otherwise limit the power of the district.

6295.2. The county agricultural commissioner of the county in which the district is located shall, in consultation with the district board, assist the district to the extent possible in all activities undertaken by the district for the control of Pierce's disease, the glassy-winged sharpshooter, or any other winegrape plant pests or diseases.

6295.3. The district board shall, immediately after its appointment and after public hearing, formulate an effective plan and adopt a budget of expenditures for the forthcoming fiscal year. At a public hearing on the plan and the budget, any owner of winegrape growing acreage included in the district may make written or oral protest against the budget or any item in it. The plan and the budget, as thereafter approved by the district board, shall be the plan and the budget of the district for the forthcoming fiscal year.

6295.4. There may be added to the budget for the first fiscal year of the operation of the district an amount not to exceed 20 percent of the total amount of the budget to cover the preliminary expenses of the district, including, but not limited to, the costs of formation, before the beginning of the first fiscal year.

6295.5. For each fiscal year subsequent to the first year of operation of the district, the district board shall adopt the final budget therefor in the same manner and at the same time that the budget for the first fiscal year was adopted.

6295.6. The board of supervisors may charge the district for actual costs incurred by the county in connection with the proceedings for the formation of the district, and the district shall reimburse the county from assessments levied for those expenses.

Article 5. Levy of Assessments for District Purposes

6296. The county assessor, in making the annual assessment of property included in the district each and every year after the organization of the district, shall identify any parcel of real property with one acre, or more, of winegrape plants.

6296.1. Whenever acreage within the district is planted with winegrape plants in such a fashion as to qualify as winegrape growing acreage, the acreage is subject to assessment as provided in this article.

6296.2. (a) After the district has been formed, an owner of winegrape growing acreage in the district may present to the district board a request in writing for the exclusion of that land or any part of the land from the district upon a showing that the land or part of the land will not be benefited by the activities of the district. Factors that the district board may consider in its determination for exclusion shall include an affidavit from the owner that the plants have been removed from the land and will not be replanted within the foreseeable future. However, should the excluded land be planted to winegrapes, the landowner shall be required to inform the district, in writing, within 30 days of planting.

(b) After receipt of the request, the district board shall cause an investigation of the parcel of land to be made and, if the district board



determines that the land or part of the land will not be benefited by the activities of the district, the district board shall exclude the winegrape acreage from the district and immediately certify this fact to the county assessor and the county auditor or tax collector.

(c) Any owner of winegrape acreage outside of, or otherwise not included in, the district may present to the district board a request in writing for inclusion of the land in the district.

6296.3. (a) The district board shall, on or before the first Monday in April of each year, file with the board of supervisors a budget that sets forth all estimated expenditures of the district for the fiscal year commencing on the first day of July. A copy of the budget shall also, at the same time, be filed with the auditor of the county. The board of supervisors shall cause to be prepared and filed with the clerk of the board of supervisors a written report that contains all of the following information:

(1) A description of each parcel of property proposed to be subject to the assessment.

(2) The amount of the assessment of each parcel for the initial fiscal year.

(3) The maximum amount of the assessment that may be levied for each parcel during any fiscal year.

(4) The duration of the assessment.

(5) The basis of the assessment.

(6) The schedule of the assessment.

(7) A description specifying the requirements for written and oral protest, and the protest threshold necessary for requiring abandonment of the proposed assessment pursuant to Section 6299.

(b) The board of supervisors may, by ordinance or by resolution, adopted after complying with the notice, protest, and hearing procedures in Article 4.6 (commencing with Section 53750) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and upon approval by two-thirds of the benefiting vineyard property owners, determine and levy an assessment for winegrape pest and disease control activities for any of the following purposes:

(1) Responding to, managing, and controlling the effects of the spread of Pierce's disease, the glassy-winged sharpshooter, and any other pests that attack winegrape plants.

(2) Collecting and disseminating to winegrape producers in the district all relevant information and scientific studies concerning the pest, or pests, and winegrape diseases.

(3) Charting and determining the extent and location of any infestations.

(c) The annual assessment shall not exceed twenty dollars (\$20) per planted acre.

(d) (1) The district board may establish zones or areas of benefit within the district, and may restrict the imposition of assessments to areas lying within one or more of the zones or areas of benefit established within the district.

(2) The assessment shall be levied on each parcel planted with winegrape plants in such a fashion as to qualify as winegrape growing acreage within the boundaries of the district, zone, or area of benefit.

(e) In addition, the mailed notice shall include the name of the district, the return address of the sender, the amount of the assessment for the initial fiscal year, the maximum amount of the assessment that may be levied during any fiscal year and the name and telephone number of the person designated by the board of supervisors to answer inquiries regarding the protest proceedings.

6296.5. The assessment so levied shall be computed and entered upon the assessment roll by the county auditor, and if the supervisors fail to levy the assessment as required, the auditor shall do so. The assessment shall be collected at the same time, and in the same manner as, and together with and not separate from, general county taxes, and when collected shall be paid into the county treasury for the use of the district.

6296.6. The general provisions of the laws of this state, prescribing the manner of levying and collecting county taxes and the duties of the several county officers with respect to levying and collecting county taxes, are, so far as they are applicable and not in conflict with the specific provisions of this article, hereby adopted and made a part of this article. The several county officers thus referred to shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this chapter.

6296.7. The revenue from the assessments imposed pursuant to this chapter by the district are trust funds and shall be encumbered only for the purposes for which the district is formed and for the benefit of the property assessed. The district shall expend the minimum amount necessary for overhead and other administrative costs. No district funds shall be donated, loaned, or transferred to any other local agency or to the State of California for any purpose, except for the implementation of the duties of the district, set forth under this chapter, as determined necessary by the district board.

6296.8. The county treasury shall be the repository of all the moneys of the district. The county treasurer shall receive and receipt for all those moneys, and place the same to the credit of the district. The county treasurer shall be responsible upon his or her official bond for the



safekeeping and disbursement, in the manner provided in this article, of all moneys of the district so held.

6296.9. (a) The county treasurer shall pay out money of the district only upon warrants of the county auditor drawn upon the order of the board of directors of the district signed by the chairperson or vice chairperson and attested to by the secretary. The county treasurer, with the approval of the board of supervisors, shall pay out the money of the district upon one master warrant of the county auditor drawn upon the order of the board of directors of the district and signed by the chairperson or vice chairperson and attested to by the secretary, to meet the district's expenses, including salaries, at such intervals as is approved by the board of supervisors.

(b) The county treasurer shall report, in writing, on the first day of July, October, January, and March of each year, to the district board of directors, the amount of money the treasurer then holds for the district, the amount of receipts since the last report, and the amounts paid out. Each report shall be verified and filed with the secretary of the district to whom it is addressed.

Article 6. Inclusion of Lands

6297. Lands devoted exclusively to the growing of winegrapes within a tract of land outside the district, but in the county in which the district is located, may be annexed to the district in the same manner provided in this chapter for the formation of the district.

Article 7. Consolidation

6298. Any two or more districts organized or existing under this chapter may be consolidated, whether or not the boundaries are coterminous.

Article 8. Dissolution of Districts

6299. Upon the filing of a petition with the board of supervisors, signed by 50 percent or more of the owners of 65 percent or more of the affected land, or signed by 65 percent or more of the owners of 50 percent or more of the affected land, requesting the dissolution of the district, the board of supervisors shall set a time and place for hearing on the petition, which shall not be less than 20 days, or more than 40 days, after the filing of the petition. Immediately following the hearing, the board of supervisors shall vote on the petition for dissolution. A majority vote



supporting the petition by the supervisors will result in dissolution of the district.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the winegrape industry in Napa County from the immediate threat of Pierce's disease and other pests and diseases it is necessary for this act to take effect immediately as an urgency statute.

